



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/172988

PRELIMINARY RECITALS

Pursuant to a petition filed March 22, 2016, under Wis. Admin. Code §HA 3.03, to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on April 13, 2016, at Racine, Wisconsin.

The issue for determination is whether the petitioner was overpaid \$536 in FoodShare (FS) benefits from December 1, 2014 to March 31, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Racine County. The petitioner was the only person in her household during the FS overpayment period.
2. On March 11, 2016 the agency sent the petitioner a notice stating that she was overpaid \$536 in FoodShare (FS) benefits from December 1, 2014 to March 31, 2015.

3. Prior to this overpayment period, on September 15, 2014, the agency sent the petitioner a notice stating that her monthly FS benefits increased from \$189 to \$194. The agency was not counting any income for the petitioner. The notice went on to state that if her monthly income before taxes went over \$1,265, she had to report that income to the agency by the 10th day of the following month.
4. The petitioner's monthly gross income was as follows:
 - a. \$1,807.32 – October 2014
 - b. \$1,884.89 – November 2014
 - c. \$892.51 – December 2014
 - d. \$1,725.51 – January 2015
 - e. \$995.13 – February 2015
 - f. \$1,227.75 – March 2015
5. The petitioner never reported to the agency that her income increased above her reporting requirement.
6. The petitioner was responsible for a \$535 mortgage payment and her utilities.
7. The petitioner was eligible for the following FS benefits:
 - a. \$119 – December 2014
 - b. \$16 – January 2015
 - c. \$89 – February 2015
 - d. \$16 – March 2015
8. The petitioner received \$194 per month in FS benefits between December 2014 and March 2015.
9. On March 22, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

The Federal regulation concerning FoodShare overpayments requires a State agency to take action to establish a claim against any household that received an overissuance of FoodShare due to an intentional program violation, an inadvertent household error (also known as a "client error"), or an agency error (also known as a "non-client error"). 7 *Code of Federal Regulations (CFR)* § 273.18(b), see also *FoodShare Wisconsin Handbook (FSH)*, §7.3.2.

The FS regulations require that a household reports when their income exceeds 130% of the federal poverty level (FPL). *FoodShare Wisconsin Handbook (FSWH)* § 6.1.1.2. The household must report this increase in income by the 10th of the month following the income exceeding 130% of the FPL. *Id.*

In this case the petitioner's income increased from \$0 to more than 130% FPL in October 2014. She had until November 10, 2014 to report that increase. This would have impacted her FS benefits December 2014 and forward. Between December 2014 and March 2015 the petitioner received \$776 in FS benefits. She was entitled to \$240 in FS benefits. The difference of \$536 is the amount of the overpayment.

CONCLUSIONS OF LAW

The petitioner was overpaid \$536 in FoodShare (FS) benefits from December 1, 2014 to March 31, 2015.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 12th day of May, 2016

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 12, 2016.

Racine County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability